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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,275	01/28/2004	Michael Bantlin	600.1297	3458
23280	7590	12/07/2005		
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018				
			EXAMINER MORRISON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/766,275	Applicant(s) BANTLIN ET AL.	
Examiner Thomas A. Morrison	Art Unit 3653	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): the rejection under 35 U.S.C. 112, second paragraph.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8, 10 and 11.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Continuation of 13. Other: The remarks in applicant's 11/25/05 amendment regarding the rejection of claims 1-8 and 10-11 under 35 U.S.C 102(b) in view of U.S. Patent No. 6,142,463 (Lechnitz) have been fully considered, but they are not persuasive. As explained in the final rejection dated 8/25/05, column 5, lines 10-16 of Lechnitz states that, "an identical switch-on time generated by control unit 14 and received by both drive control unit 12 of the feeder 2 and drive unit 13 of the auxiliary pile-carrying assembly 3 causes auxiliary pile-carrying assembly 3 and main pile-carrying assembly 19 of the feeder 2 to move identically." The dictionary defines the word "identical" as "1. being the same". See Merriam Webster's Collegiate Dictionary, 10th Ed., at page 575. Also, the dictionary defines the word "simultaneous" as "1: existing or occurring at the same time". See page 1094. As such, it is the examiner's position that the main and auxiliary piles can be considered to move simultaneously via the identical movement of the auxiliary pile-carrying assembly 3 and the main pile-carrying assembly 19. Moreover, lines 7-10 of claim 1 of Lechnitz state "a control unit for providing a common control signal to the first and second drive units for synchronously driving the main and auxiliary pile-carrying assemblies". In other words, a common control signal is used to start both drive units (i.e., a start signal). While it is also noted that claim 3 of Lechnitz, which depends from independent claim 1 of Lechnitz, discloses that the common control signal may involve first and second control signals with different timing, independent claim 1 of Lechnitz is not limited to this interpretation because independent claim 1 uses the broad recitation "a common control signal". Similarly, claim 1 of the instant application uses the broad recitation "a start signal". Since the common control signal of Lechnitz starts the operation of the drive units, it can be broadly interpreted as "a start signal". In Lechnitz, the recited "a common control signal" (i.e., start signal) starts the operation of both drive units, and the drive units operate such that the main and auxiliary piles move simultaneously. As such, it is the examiner's position that the common control signal (i.e., start signal) simultaneously initiates movement of the main and auxiliary piles. Thus, all of the limitations of claim 1 are satisfied. Claim 11 is rejected for similar reasons. The rejections of the rest of the dependent claims 2-8 and 10 are outlined in the final rejection dated 8/25/05.


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